

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 330

Introduced by Transportation and Telecommunications Committee
Fischer, 43, Chairperson; Campbell, 25; Hadley, 37;
Lautenbaugh, 18; Louden, 49; Stuthman, 22.

Read first time January 15, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Public Service Commission; to amend
2 sections 86-141, 86-442, 86-443, 86-457, and 86-459,
3 Reissue Revised Statutes of Nebraska, and section 75-134,
4 Revised Statutes Cumulative Supplement, 2008; to change
5 provisions relating to orders of the commission and
6 telecommunications companies not subject to regulation;
7 to change duties for wireless carriers and define a
8 term under the Enhanced Wireless 911 Services Act;
9 to harmonize provisions; and to repeal the original
10 sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 75-134, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 75-134 (1) A commission order entered after a hearing
4 shall be written and shall recite (a) a discussion of the facts
5 of a basic or underlying nature, (b) the ultimate facts, and (c)
6 the commission's reasoning or other authority relied upon by the
7 commission.

8 (2) Every order of the commission shall become effective
9 ten days after the date of the mailing of a copy of the order to
10 the parties of record except (a) when the commission prescribes a
11 ~~later~~ an alternate effective date, (b) as otherwise provided in
12 section 75-121 or 75-139, (c) for cease and desist orders issued
13 pursuant to section 75-133 which shall become effective on the date
14 of entry, or (d) for orders entered pursuant to section 75-319
15 which shall become effective on the date of entry.

16 (3) Except as otherwise provided in this section or
17 for rate orders provided for in section 75-139, any appeal of a
18 commission order shall not stay enforcement of such order unless
19 otherwise ordered under subsection (3) of section 84-917.

20 Sec. 2. Section 86-141, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 86-141 (1) Telecommunications companies which serve less
23 than five percent of the state's subscriber lines in the aggregate
24 statewide shall not be subject to basic local exchange rate
25 regulation by the commission ~~pursuant to sections 86-140 and 86-153~~

1 unless (a) the telecommunications company elects by action of its
2 board of directors to be subject to such rate regulation by the
3 commission, (b) the proposed rate increase exceeds thirty percent
4 in any one year, (c) five percent of the subscribers petition the
5 commission to regulate rates pursuant to subsections (2) through
6 (4) of this section, or (d) the commission declares that the
7 telecommunications company shall be subject to rate regulation by
8 the commission pursuant to subsection (5) of this section.

9 (2) Each such telecommunications company not subject to
10 basic local exchange rate regulation shall, at least ninety days
11 before the effective date of any proposed rate change, notify the
12 commission and each of the telecommunications company's subscribers
13 of the proposed rate change. Notice to the commission shall include
14 a list of the telecommunications company's published subscribers.
15 Notice by the telecommunications company to all subscribers shall
16 be in a form prescribed by the commission, shall be by first-class
17 mail, and shall include a schedule of the proposed rates, the
18 effective date of the rates, and the procedure necessary for the
19 subscribers to petition the commission to determine rates in lieu
20 of the proposed rates.

21 (3) The subscribers of a telecommunications company not
22 subject to the commission's basic local exchange rate regulation
23 may petition the commission to determine rates in lieu of any
24 rate change proposed by the telecommunications company pursuant
25 to subsection (2) of this section. A petition substantially in

1 compliance with the rules and regulations of the commission shall
2 not be deemed invalid due to minor errors in its form.

3 (4) If, by the effective date of the telecommunications
4 company's proposed rate change, the commission has received
5 petitions from less than five percent of the subscribers
6 requesting that the commission determine rates, the commission
7 shall certify such fact to the telecommunications company and
8 the telecommunications company's proposed rates shall become
9 effective as published in the notice to subscribers. If, on
10 or before the effective date of the proposed rate change, the
11 commission has received petitions from five percent or more of
12 the subscribers requesting that the commission determine rates,
13 the commission shall notify the telecommunications company that it
14 will determine rates for the telecommunications company in lieu
15 of the telecommunications company's proposed rate change. Rates
16 established by the commission or by a telecommunications company
17 pursuant to subsections (2) through (4) of this section shall be
18 in force for at least one year.

19 (5) In addition to the procedure for petition prior
20 to any proposed rate change pursuant to subsections (2) through
21 (4) of this section, the subscribers of a telecommunications
22 company not subject to the commission's basic local exchange rate
23 regulation may at any time petition the commission to declare
24 that the telecommunications company shall be subject to such rate
25 regulation. If the commission determines that at least fifty-one

1 percent of a telecommunications company's subscribers have properly
2 petitioned that the telecommunications company be subject to the
3 commission's basic local exchange rate regulation, the commission
4 shall certify such fact to the telecommunications company and
5 thereafter the telecommunications company shall be subject to basic
6 local exchange rate regulation by the commission until at least
7 fifty-one percent of the telecommunications company's subscribers
8 properly petition that the telecommunications company no longer
9 shall be subject to the commission's basic local exchange rate
10 regulation. ~~This section shall not be construed to exempt any local~~
11 ~~exchange carrier from regulation of its access charges pursuant to~~
12 ~~section 86-140.~~

13 Sec. 3. Section 86-442, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 86-442 Sections 86-442 to 86-470 and section 5 of this
16 act shall be known and may be cited as the Enhanced Wireless 911
17 Services Act.

18 Sec. 4. Section 86-443, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 86-443 For purposes of the Enhanced Wireless 911 Services
21 Act, the definitions found in sections 86-444 to 86-456.01 and
22 section 5 of this act apply.

23 Sec. 5. Reseller means a wireless carrier that does not
24 own any transmission facility and obtains wireless service from
25 another wireless carrier for resale to users of wireless service

1 for consideration.

2 Sec. 6. Section 86-457, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 86-457 (1) Each wireless carrier shall collect:

5 (a) A surcharge of up to seventy cents, except as
6 provided in subdivision (1)(b) of this subsection and as otherwise
7 provided in this section with respect to prepaid wireless service,
8 on all active telephone numbers or functional equivalents every
9 month from users of wireless service and shall remit the surcharge
10 in accordance with section 86-459; or

11 (b) A surcharge of up to fifty cents, except as otherwise
12 provided in this section with respect to prepaid wireless service,
13 on all active telephone numbers or functional equivalents every
14 month from users of wireless service whose primary place of use is
15 in a county containing a city of the metropolitan class and shall
16 remit the surcharge in accordance with section 86-459.

17 The wireless carrier is not liable for any surcharge not
18 paid by a customer.

19 (2) Except as otherwise provided in this section, the
20 wireless carrier shall add the surcharge to each user's billing
21 statement. The surcharge shall appear as a separate line-item
22 charge on the user's billing statement and shall be labeled as
23 "Enhanced Wireless 911 Surcharge" or a reasonable abbreviation of
24 such phrase.

25 (3) ~~If a wireless carrier, except~~ Except as otherwise

1 provided in this section, ~~resells its service through other~~
2 ~~entities,~~ each a reseller shall collect the surcharge from its
3 customers and shall remit the surcharge in accordance with section
4 86-459.

5 (4) It is the intent of the Legislature that, effective
6 July 1, 2007, all users of prepaid wireless services pay an amount
7 comparable to the amount paid by users of wireless services that
8 are not prepaid in support of statewide wireless enhanced 911
9 service. It is also the intent of the Legislature that whenever
10 possible such amounts be collected from the users of such prepaid
11 wireless services.

12 (5) The commission shall establish surcharges comparable
13 to the surcharge assessed on other users of wireless services
14 and shall develop methods for collection and remittance of
15 such surcharges from wireless carriers offering prepaid wireless
16 services.

17 (6) The duty to remit any surcharges established pursuant
18 to subsection (5) of this section is the responsibility of the
19 wireless carrier.

20 (7) This section shall not apply to users who have no 911
21 service.

22 Sec. 7. Section 86-459, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 86-459 (1) Each wireless carrier shall remit monthly to
25 the commission the amounts collected pursuant to section 86-457

1 together with any forms required by the commission no later than
2 sixty days after the last day of the month. The commission shall
3 remit the funds to the State Treasurer for credit to the Enhanced
4 Wireless 911 Fund.

5 (2) As the commission may require, each wireless carrier,
6 except a wireless carrier whose users have no 911 service, shall
7 report to the commission on a quarterly basis ~~for each county~~ in a
8 manner prescribed by the commission the following information: (a)
9 The number of telephone numbers or functional equivalents served;
10 (b) the number of telephone numbers or functional equivalents
11 from which it has collected surcharge revenue; (c) the number
12 of wireless towers by county; and (d) the current implementation
13 status of enhanced wireless 911 service in each county served by
14 that wireless carrier.

15 (3) The wireless carrier shall maintain all records
16 required by this section, records of the amounts collected pursuant
17 to section 86-457, and remittance records for a period of five
18 years after the date of remittance to the fund. The commission
19 may require an audit of any wireless carrier's books and records
20 concerning the collection and remittance of any amounts collected
21 pursuant to the Enhanced Wireless 911 Services Act. The costs of
22 any audit required by the commission shall, at the commission's
23 discretion, be paid by the audited wireless carrier. A wireless
24 carrier shall not be required to pay for more than one remittance
25 audit or more than one collection audit per year, unless the

1 commission orders subsequent audits for good cause.

2 (4) Each wireless carrier shall comply with all
3 commission rules and regulations regarding enhanced wireless 911
4 service.

5 (5) Each wireless carrier shall comply with this section
6 regardless of whether the wireless carrier receives reimbursement
7 from the fund. Wireless carriers failing to comply with this
8 section may be administratively fined by the commission pursuant to
9 section 75-156.

10 Sec. 8. Original sections 86-141, 86-442, 86-443, 86-457,
11 and 86-459, Reissue Revised Statutes of Nebraska, and section
12 75-134, Revised Statutes Cumulative Supplement, 2008, are repealed.